

Application No.: 10/657,420

Docket No.: 022956-0238

REMARKS

Claims 70-85 are pending, and claims 70-85 stand rejected. By this response, Applicant amends claim 70 and cancels claim 72. Applicant respectfully requests entry of the amendments submitted herewith pursuant to 37 C.F.R. § 1.116(b)(1) because such amendments are necessary to comply with the Examiner's requirement of form stated in the final Office Action. In particular, the Examiner requires that the "[t]he claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art."

Amendments to the Claims

Applicant amends claim 70 to clarify that the suture-engaging tip is tapered. Support can be found throughout the specification, at least in claim 72, which is now canceled. No new matter is added.

Claims 70-71 and 73-85 are now pending.

Information Disclosure Statement

The Examiner states that the Information Disclosure Statement filed on July 1, 2005 fails to comply with 37 C.F.R. §§ 1.97 and 1.98. Accordingly, Applicant filed a new Information Disclosure Statement with the appropriate filing fee on October 25, 2005.

Claim Rejections Pursuant to 35 U.S.C. § 102

The Examiner continues to reject claims 70-79 and 81 pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,707,395 of Li. The Examiner argues that Li recites all of the elements of Applicant's claims. Applicant respectfully disagrees with the Examiner's rejection.

Claim 70 recites a suture anchor system that includes a *tapered* suture engaging tip at a distal end, as shown in FIG. 4 which is reproduced herein and with the label "D" added to show the tapered suture engaging tip. When inserted into tissue, the distal end with the suture-

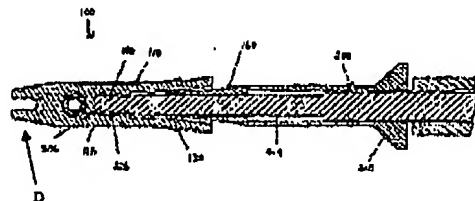
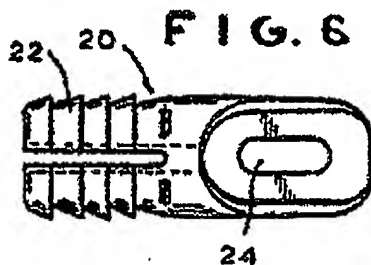


FIG. 4

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engaging tip is the leading end, and the tapered tip can help to facilitate insertion of the device into tissue.



Nowhere does Li teach or even suggest a suture anchor system that includes a *tapered* tip, let alone a tapered suture engaging tip at a distal end as required by claim 70. As shown in FIG. 6 which is also reproduced herein and contrary to the assertion of the Examiner, *neither* the proximal or distal ends of member 20 have a tapered suture engaging tip.

Rather, both the proximal and distal tips of Li have a *constant* diameter, and the proximal or artificial ligament engaging end also includes a *rounded* end. Further, it would not have been obvious to include a tapered suture engaging tip on the device of Li, as Li teaches a ligament anchor that is configured in the exact opposite way as that of Applicant's. In particular, and still referring to FIG. 6, Li teaches a ligament anchor where the proximal end includes a hole 24 in the side thereof to receive an artificial ligament and the distal end has a bore formed therein. When inserted into bone, the distal end having the bore is the leading end, and the bore in the distal end receives only an expanding member, not a suture or a ligament. Col. 7, lns. 13-15. That is, the portion of the anchor having the bore is placed into the bone first, and the proximal end having the hole 24 holding the artificial ligament follows. Because the end having the hole 24 with the artificial ligament is not the leading end, it would be unnecessary for that end to include features to facilitate insertion into bone, such as the tapered suture engaging tip recited by claim 70.

Accordingly, claim 70, as well as claims 72-79 and 81 which depend therefrom, distinguish over Li and represent allowable subject matter.

Claim Rejections Pursuant to 35 U.S.C. § 103

The Examiner continues to reject dependent claim 80 pursuant to 35 U.S.C. § 103(a) as being obvious over Li in view of U.S. Patent No. 5,928,244 of Tovey et al. The Examiner also continues to reject dependent claims 82-85 pursuant to 35 U.S.C. § 103(a) as being obvious over Li. As discussed above, independent claim 70 distinguishes over Li. Further, Tovey does not remedy the deficiencies of Li.

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Accordingly, dependent claims 80 and 82-85 are therefore allowable because they depend from an allowable base claim.

Conclusion

Applicant submits that all claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

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Respectfully submitted,

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